
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

JULIAN DOMINGUEZ,

Plaintiff,

versus

RICK PERRY, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:09-CV-695

**MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Julian Dominguez, a prisoner previously confined at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983.

The court ordered that this matter be referred to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends dismissing the case as frivolous pursuant to 28 U.S.C. § 1915(e).

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). The excessive force claim is frivolous. Plaintiff admits he refused to obey orders to submit to handcuffs, and the only force used was necessary

to secure the restraints. Plaintiff's claims concerning electronic monitoring are factually frivolous because his allegations are fantastic and clearly delusional.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED at Beaumont, Texas, this 9th day of September, 2010.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE